

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Case No.: 09-50779

Chapter 7

Dennis E. Hecker,

Debtor.

NOTICE OF HEARING AND MOTION FOR TURN OVER

TO: Christi Rowan, 1615 North Ridge Drive, Wayzata, MN 55391 and her attorney, Richard Carlson, Morris Law Group, 7241 Ohms Lane, Edina, MN 55439; Kelly Hecker, 13905 – 53rd Avenue North, Apartment 1, Plymouth, MN 55446, Holly Hecker, 1600 Knollwood Parkway, Minneapolis, MN 55405, Kyle Kosmider a/k/a Kajetan Szymon Kosmider, 65 Clay Cliff Drive, Tonka Bay, MN 55331.

1. Randall L. Seaver, the Chapter 7 Trustee herein, moves the Court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this motion at 11:30 a.m. on March 9, 2011, in Courtroom 8 West, U.S. Bankruptcy Court, 300 South Fourth Street, Minneapolis, MN 55415.

3. Any response to this motion must be filed and served by delivery not later than March 4, 2011 which is five days before the time set for the hearing (including Saturdays, Sundays and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This Court has jurisdiction over this Motion under 28 U.S.C. §157 and §1334 and Bankruptcy Rule 5005. This Motion is filed under Local Rule 9013-2, this proceeding arises under 11 U.S.C. §542 and Local Rule 6072-1.

5. The petition commencing this Chapter 7 case was filed on June 4, 2009. The case is now pending in this Court.

6. On October 6, 2010, in the adversary proceeding, *Seaver v. Hecker and Rowan*, ADV. No. 10-5032, a preliminary injunction was entered against Christi Rowan and Hecker which, among other things, provided that:

The defendants, their agents or assigns are enjoined from using, disposing, transferring, encumbering, secreting or destroying any and all estate property, including estate property concealed by Hecker.

7. On October 18, 2010, Dennis Hecker was taken into federal custody and has been in custody since that time.

8. On October 28, 2010, Hecker signed a power of attorney which stated, in part, as follows:

I, Dennis Earl Hecker, as Principal and a resident of the State of Minnesota designate my life-partner, Christi Michele Rowan to serve as Attorney-In-Fact (my "Agent") for me and to act as the guardian or limited guardian of my estate should guardianship proceedings become necessary or desirable.

9. On December 10, 2010, this Court issued an order in ADV No. 10-5032 authorizing the Trustee to enter a home then occupied by Christi Rowan at 1615 North Ridge Drive, Wayzata. A person who was identified as Kyle Kosmider (a/k/a Kajetan Szymon Kosmider) was present with Rowan at North Ridge on December 10, 2010.

10. In January, 2011, the Trustee obtained copies of several small checks previously written to a Hecker business entity, "Jacob Holdings of St. Cloud." All of those checks were recently cashed by a "K" or "Kyle Kosmider."

11. The Trustee received other information indicating that Mr. Kosmider had been hired by Rowan to assist Rowan in locating and liquidating Hecker-related assets. Based on related information, the Trustee, pursuant to Bankruptcy Rule 2004 authorization, served subpoenas upon U.S. Bank.

12. On February 8, 2011, U.S. Bank produced documents pursuant to Subpoena. A redacted copy of a February 8, 2011 letter to the Trustee from U.S. Bank, together with some of the documents produced pursuant to that letter are attached hereto as Exhibit A.

13. One of the documents produced by U.S. Bank, and attached at Exhibit A, is a December 17, 2010 check from Prudential, payable to Dennis Hecker, in the amount of \$1,149.26 ("**Prudential Check**"). The Prudential Check was deposited into an account held in the names of "Dennis E. Hecker or Kelly Hecker," and ending in Account No. 0553, on December 30, 2010. The check was deposited pursuant to a counter deposit ticket, apparently signed by Christi Rowan, pursuant to the power of attorney she had obtained from Dennis Hecker.

14. It appears the Prudential Check had been mailed to 500 Ford Road. See Exhibit A. Apparently Ms. Rowan took the check and then deposited it into Hecker account number 0553, and pursuant to her power of attorney, withdrew \$500.00 in cash, most or all of which was from the Prudential Check. See Exhibit A.

15. The Prudential Check was a dividend check issued as a result of the ownership of 1,388 shares of Prudential stock ("**Prudential Stock**") held by Computershare under the name of Dennis E. Hecker. That ownership resulted from a 2001 demutualization of Prudential insurance policies. Hecker did not disclose any such stock ownership in his schedules. Both the Prudential Stock and the resulting Prudential Check are bankruptcy estate property. The existence of the Prudential Check was never disclosed to the Trustee by Christi Rowan. The Trustee did not consent to Christi Rowan's unauthorized taking of the Prudential Check and monies derived therefrom. It appears that Ms. Rowan's apparent taking of those monies was a violation of the October 6, 2010 order issued by this Court.

16. Prior to bringing this motion, the Trustee, secured the Prudential Stock, to assure that it could not be misappropriated by others. The Trustee caused the Prudential Stock to be

transferred into an account held for the Trustee. On February 22, 2011, the Prudential stock was trading at over \$65.00 per share, for an apparent total value of in excess of \$90,000.00.

17. It also appears that from November 29, 2010 through December 13, 2010, Rowan, using the Hecker power of attorney, withdrew over \$9,000.00 from the Hecker U.S. Bank accounts ending in 0545 and 0553. See Exhibit B hereto.

18. Christi Rowan, Kyle Kosmider, Holly Hecker and Kelly Hecker would likely have information about deposits into and withdrawals from the Dennis E. Hecker joint accounts at U.S. Bank. Christi Rowan and Kyle Kosmider would also have information regarding liquidation of Hecker-related assets.

WHEREFORE, the Trustee requests an order of the Court compelling Christi Rowan, Kyle Kosmider, Kelly Hecker, and Holly Hecker to turn over to the Trustee, within 7 days from the date of hearing on this motion, the following documents:

1. Any and all documents relating to, evidencing, or discussing the receipt by anyone, of any assets of the Hecker bankruptcy estate, or assets of Dennis E. Hecker or his business-related entities, from and after July 1, 2010, including, without limitation, all documents related to the Prudential Check, and any other Prudential checks.

2. Copies of all bank statements for any accounts, including the accounts identified at U.S. Bank ending in numbers 0537, 0545, and 0553, into which any monies derived from the liquidation or receipt of assets of Dennis Hecker, Dennis Hecker Bankruptcy Estate, or Dennis Hecker business entities have been deposited, from July 1, 2010 to date.

3. Copies of any and all checks written upon and any documents evidencing any deposits into any accounts described at paragraph 2 hereof from July 1, 2010 to date.

4. Any and all records relating to the ultimate use of the proceeds of the items detailed herein.

**LEONARD, O'BRIEN,
SPENCER, GALE & SAYRE LTD.**

Dated: February 22, 2011

/e/ Matthew R. Burton

By: _____
Matthew R. Burton #210018
Attorneys for Trustee
100 South Fifth Street, Suite 2500
Minneapolis, MN 55402
(612) 332-1030

VERIFICATION

I, Randall L. Seaver, Trustee for the Bankruptcy Estate of Dennis E. Hecker, named in the foregoing Notice of Hearing and Motion for Turnover of Property declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on February 22, 2011

/e/ Randall L. Seaver

Randall L. Seaver, Trustee

435002



All of us serving you

U.S. Bank N.A.
Corporate Legal Department
800 Nicollet Mall
BC-MN-H21P
Minneapolis, MN 55402

Via -- email to: rseaver@fullerseaverramette.com

February 8, 2011

Randall L. Seaver
Fuller, Seaver & Ramette, PA
12400 Portland Ave. S.
Suite 132
Burnsville, MN 55337

RE: Subpoena -- *Dennis E. Hecker*
Our File Number: *S2011-01203*

Dear Mr. Seaver:

Enclosed please find information responsive to the subpoena served on U.S. Bank National Association in the above referenced matter. Documents enclosed include copies of items requested in relation to the following accounts:

- 0537 in the names of Dennis E. Hecker or Hecker for activity between 10/15/2010 through 01/01/2011.
- 0545 in the names of Dennis E. Hecker or Holly Hecker for activity between 10/15/2010 through 01/01/2011.
- 0553 in the names of Dennis E. Hecker or Kelly Hecker for activity between 10/15/2010 through 01/01/2011.
- Power Of Attorney documents naming Christi Rowen as POA on the accounts of Dennis E. Hecker are also enclosed.

If you have any questions, please feel free to contact me directly at 612-303-7854.

Sincerely,

Heidi M. Powers
Paralegal
Agent for Legal Process

Enclosures

U.S. Bank Confidential Communication



Requested by: Heidi Powers

This check image contains confidential information. If you print this image, please store it in a secure place to avoid unauthorized usage of this information. Increased security awareness when discarding or destroying this document is recommended.

Item #2	Account No. 0553	Check No.:	Sequence No.:										
Amount: \$704.20	Routing No.:	Date: 12/30/2010											
Front:	COUNTER DEPOSIT All of us serving you DATE 12/30/2010 DENNIS E MECKER DEPOSIT TO THE ACCOUNT OF SIGN ABOVE FOR CASH RECEIVED ACCOUNT NUMBER 0553												
Back:	<table border="0"> <tr> <td>CASH</td> <td>54.94</td> </tr> <tr> <td>CHECK OR TOTAL FROM OTHER SIDE</td> <td>1149.26</td> </tr> <tr> <td>SUB TOTAL</td> <td>500.00</td> </tr> <tr> <td>LESS CASH RECEIVED</td> <td>704.20</td> </tr> <tr> <td></td> <td>0553</td> </tr> </table>			CASH	54.94	CHECK OR TOTAL FROM OTHER SIDE	1149.26	SUB TOTAL	500.00	LESS CASH RECEIVED	704.20		0553
CASH	54.94												
CHECK OR TOTAL FROM OTHER SIDE	1149.26												
SUB TOTAL	500.00												
LESS CASH RECEIVED	704.20												
	0553												

1 of 4

U.S. Bank Confidential Communication



Requested by: Heidi Powers

This check image contains confidential information. If you print this image, please store it in a secure place to avoid unauthorized usage of this information. Increased security awareness when discarding or destroying this document is recommended.

Item #9	Account No. 123456789	Check No.: Routing No.:	Sequence No.: Date: 12/30/2010
Amount: \$54.94	FRONT		DEC 18, 2010 PNC BANK, N.A. 000 88-117 311
GEICO GOVERNMENT EMPLOYEES INSURANCE CO ONE GEICO PLAZA WASHINGTON, D.C. 20078		NO. 0017458288	
EXACTLY.....\$54.94		VOID AFTER 120 DAYS	
FIFTY-FOUR AND 94/100 ----- DOLLARS		CG Schen	
PAY TO THE ORDER OF DENNIS EARL HECKER 1181 MAYZATA BLVD E # 1 MAYZATA, IN 46381-1035		TREASURER	
Back:	12458237	(DEPOSITORY BANK USE ONLY)	1008, 06766
		X. J. [Signature] 10553 (ALL PAYEES MUST ENDORSE HERE)	

3 of 4

U.S. Bank Confidential Communication



Requested by: Heidi Powers

This check image contains confidential information. If you print this image, please store it in a secure place to avoid unauthorized usage of this information. Increased security awareness when discarding or destroying this document is recommended.

Item #13	Account No.: 00000553	Check No.:	Sequence No.: 00
Amount: \$2000.00	Routing No.: 56068052	Date: 11/29/2010	
Front:	<div><div>COUNTER WITHDRAWAL</div><div><u>Dennis</u> <u>Hick</u></div><div><u>DATE</u> <u>POA</u></div><div>ACCOUNT NUMBER</div><div>* 0553</div><div>AMOUNT</div><div>\$ 2000.00</div><div>00039 00731 0003 11/29/2010 11:51 VSB</div><div>HOLD 553 H</div><div>\$2,000.00</div><div>5606805201</div><div>0553</div><div>0000200000</div></div>		
Back:	<div>11/29/10</div> <div>2033</div> <div>7</div> <div>16744 102 JB 11/29/2010</div> <div>US BANK</div> <div>PAUL</div>		

EXHIBIT B

1 of 2

U.S. Bank Confidential Communication



Requested by: Heidi Powers

This check image contains confidential information. If you print this image, please store it in a secure place to avoid unauthorized usage of this information. Increased security awareness when discarding or destroying this document is recommended.

Item #2	Account No.: ...0553	Check No.: 0	Sequence No.: ...
Amount: \$2949.00	Routing No.: 56068052	Date: 11/29/2010	
Front:	<div><div>COUNTER WITHDRAWAL</div><div><u>Dennis Hecker</u></div><div>ACCOUNT TITLE</div><div><u>210000 P.O.#</u></div><div>SIGNATURE REQUIRED</div><div>ACCOUNT NUMBER</div><div>* 1553</div><div>AMOUNT</div><div>\$ 2949.00</div><div>00066 06731 0002 11/29/2010 11:51:05 USB</div><div>US BANK CK 8 0553 H</div><div>\$2,949.00</div><div>⑆560680520⑆</div><div>⑆⑆7553⑆</div><div>⑆0000294900⑆</div></div>		
Back:	<div><div>210000</div><div>72</div><div>76690 102 18 1 11292010</div><div>0002 US BANK</div><div>PAUL, IN</div></div>		

1 of 1

U.S. Bank Confidential Communication



Requested by: Barbette Berg

This check image contains confidential information. If you print this image, please store it in a secure place to avoid unauthorized usage of this information. Increased security awareness when discarding or destroying this document is recommended.

Item #1		Account No.0545		Check No.: 0	Sequence No.:
Amount: \$4300.00		Routing No.: 56068052		Date: 12/13/2010	
Front:					
<div style="display: flex; justify-content: space-between;"> <div style="width: 40%;"> <p>COUNTER WITHDRAWAL</p> <p>ACCOUNT TITLE _____</p> <p><i>[Signature]</i> _____ DOLLARS</p> <p>ACCOUNT NUMBER _____</p> <p>AMOUNT 4300.00</p> <p>00034 00731 0006 12/13/2010 10:46 USB US BANK CK</p> <p>5606805201 0545 0000430000</p> </div> <div style="width: 20%; text-align: center;"> <p><i>[Signature]</i></p> <p>1054\$</p> </div> <div style="width: 40%; text-align: right;"> <p>usbank Now Your Service Commitment</p> <p>DATE 12/11/2010</p> <p>AMOUNT 4300.00</p> <p>0545 H</p> <p>\$4,300.00</p> </div> </div>					
Back:					
<div style="text-align: right; padding-right: 50px;"> <p>2012</p> <p>14</p> <p>1723 102 TB 0-12132010</p> <p>US BANK</p> <p>PAUL, MN</p> </div>					

1 of 1

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

BKY No. 09-50779

In re:

Chapter 7

Dennis E. Hecker,

Debtor.

UNSWORN CERTIFICATE OF SERVICE

I hereby certify that on February 22, 2011, I caused the following documents:

Notice of Hearing and Motion for Turn Over and Order (proposed)

to be filed electronically with the Clerk of Court through ECF, and that the above documents will be delivered by automatic e-mail notification pursuant to ECF and this constitutes service or notice pursuant to Local Rule 9006-1(a).

I further certify that I caused a copy of the foregoing documents to be mailed by first class mail, postage paid, to the following:

Kelly Hecker
13905 – 53rd Avenue North, Apt. 1
Plymouth, MN 55446

Michael B. Lubic
10100 Santa Monica Blvd 7th Floor
Los Angeles, CA 90067

Holly Hecker
1600 Knollwood Parkway
Minneapolis, MN 55405

Michael W. Malter
Binder & Malter LLP
2775 Park Avenue
Santa Clara, CA 95050

Kyle Kosmider
a/k/a Kajetan Szymon Kosmider
65 Clay Cliff Drive
Tonka Bay, MN 55331

/e/ Stephanie Wood

Dated: February 22, 2011

Stephanie Wood
100 South Fifth Street, Suite 2500
Minneapolis, MN 55402
(612) 332-1030

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Case No.: 09-50779
Chapter 7

Dennis E. Hecker,

Debtor.

ORDER

This case came before the court on the motion of Randall L. Seaver, Chapter 7 trustee, for turn over of property of the estate.

Upon the motion and the files,

IT IS ORDERED that within seven (7) days from the entry of this Order, Christi Rowan, Kyle Kosmider, Holly Hecker and Kelly Hecker shall turn over to the trustee:

1. Any and all documents relating to, evidencing, or discussing the receipt by anyone, of any assets of the Hecker bankruptcy estate, or assets of Dennis E. Hecker or his business-related entities, from and after July 1, 2010, including, without limitation, all documents related to the Prudential check and any other checks from Prudential.

2. Copies of all bank statements for any accounts, including the accounts identified at U.S. Bank ending in numbers 0537, 0545 and 0553, into which any monies derived from the liquidation or receipt assets of Dennis Hecker, Dennis Hecker Bankruptcy Estate, or Dennis Hecker business entities have been deposited, from July 1, 2010 to date.

3. Copies of any and all checks written upon and all documents evidencing any deposits into any such accounts from October 1, 2010 to date.

4. Any and all records relating to the ultimate use of the proceeds of the items detailed herein.

Dated:

United States Bankruptcy Court Judge

435001